IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No. 1708 of 2005

Shri Chunilal K.Soni ..Petitioner

vs.

Messrs.Industrial Development
and Investment Co.Pvt.Ltd. ..Respondent

Shri P.S.Dani for petitioner.

CORAM: A.P.SHAH J.
14th September,2005

P.C.

1. I have heard Shri Dani appearing for the petitioner. I have also perused the judgments of the lower courts. The only question is whether the lower courts were right in holding that there was implied surrender of the premises by the petitioner in 1979. Section 111(f) of the Transfer of Property Act provides that a lease of immovable property may determine by implied surrender. Implied surrender means surrender by operation of law which occurs (i) by creation of new relationship and (ii) by relinquishment of possession. It is seen from the record that the petitioner abandoned the suit premises in 1979 and since then he has not paid the licence fee/compensation to the landlord. The petitioner has admitted in his evidence that since 1979 he is not running any business in the suit premises.

2. If the petitioner ceased to be in possession in 1979, it was incumbent upon him to explain as to why he waited for more than 12 years to file a complaint

to the police. The Lowers Courts on appreciation of material placed on record have recorded a categorical finding that the premises were abandoned by the petitioner in 1979 and since then the landlord is in possession of the premises. In my opinion, no case is made out for interference under Article 227. Petition is dismissed.